

RESPONSE UNDER 37 C.F.R. § 1.116  
U.S. Appln. No.: 10/684,659

claim and any intervening claims. Applicant submits the arguments below in traversal of the prior art rejections.

Rejection of Claims 1-2 and 4-5 under § 102(e) by Nishimoto

With regard to claim 1, the Examiner revises the explanation of the rejection by adding the citation of the spring 6 in Nishimoto as alleged by teaching of the claimed elastic retaining part and provides rebuttal to the arguments submitted in the Amendment of February 3, 2005. Applicant respectfully maintains that the Examiner's revised explanation of the rejection and the Examiner's rebuttal are not supported.

Claim 1 recites:

An ultrasonic wave utilizing device comprising:  
a cylindrical elastic holder into which an ultrasonic sensor is pressed; and  
a cylindrical part that is closed at one end and is formed in a case in such a way as to have the elastic holder assembled therein, characterized in that  
the elastic holder has an elastic end wall, and *a first elastic retaining part for retaining an outside end edge of the ultrasonic sensor* which is pressed into the elastic holder.

In Nishimoto, the spring 6 is on the outside of a case 5 and is not part of an elastic holder as described in claim 1. Col. 4, lines 10-14. In addition, the spring 6 is used to secure a case and it is not for retaining an outside end edge of an ultrasonic sensor. *Id.* By contrast, claim 1 recites an elastic retaining part for retaining an outside end edge of an ultrasonic sensor. Therefore, the claimed elastic retaining part does not read on the spring 6 of Nishimoto.

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In the rebuttal, the Examiner contends that Nishimoto provides adequate teaching for performing the function of the claimed retaining part because the spring 6 is used for securing a case and the rubber holder 8 is used for securing an ultrasonic sensor. Office Action, pages 4-5, paragraph 7. Applicant respectfully submits that the Examiner continues to overlook significant differences between claim 1 and the reference. First, the claim recites a first elastic retaining part for retaining an outside end edge of the ultrasonic sensor. As noted above, the spring 6 is disposed at the outside of the case 5 and does not even contact the ultrasonic sensor 2. Therefore, the spring 6 cannot possibly retain an outside end edge of the ultrasonic sensor 2. Second, even if the prior art device performs all the functions recited in the claim, the prior art cannot anticipate the claim if there is any structural difference. Manual of Patent Examining Procedure (MPEP) 2114. Even assuming *arguendo*, that the rubber holder 8 performs the same functions as the claimed elastic retaining part, the reference does not further describe the rubber holder having an elastic retaining part for retaining an outside end edge of an ultrasonic sensor as recited in claim 1. Therefore, the claimed elastic retaining part does not read on the rubber holder 8 of Nishimoto.

For at least the above reasons, claim 1 is believed to be patentable.

Claims 2 and 4-5, which depend from claim 1, are believed to be patentable for at least the reasons submitted for claim 1.

Rejection of Claims 7-8 under § 103(a) by Nishimoto

Claims 7-8, which depend from claim 1, are patentable for at least the deficiencies of Nishimoto submitted for claim 1.

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In addition, the Examiner concedes that Nishimoto does not disclose or suggest a second elastic retaining part having an elastic pillar-shaped part that is passed through a hole formed in a bottom of the cylindrical part as recited in claims 7-8. However, the Examiner does not supply any other reference to make up for the deficiencies of Nishimoto with respect to this feature.

Applicant notes that to establish a *prima facie* case of obviousness, the prior art reference must teach or suggest all the claim limitations. MPEP 706.02(j). Applicant respectfully requests that an appropriate reference be supplied to support the rejection. Absent a supporting reference, the rejection should be withdrawn. Should the Examiner apply a new reference, Applicant requests that the finality of the Office Action should be withdrawn.

Lastly, in response to the Examiner's allegation that the Applicant has not disclosed that the pillar-shaped part solves any stated problem or is for any particular purpose, Applicant directs the Examiner's attention to lines 11-22 on page 4 of the Applicant's specification.

As noted in the Applicant's specification, one of the problems solved by the pillar-shaped part in an embodiment of the invention is to simplify holding of the ultrasonic sensor. One property of the invention is that the ultrasonic sensor is arranged in a downward direction. Conventionally, ultrasonic sensors are fixed by using adhesives of silicone rubber.

On the other hand, in an embodiment of the present invention, the pillar-shaped straight parts are provided to extend from the elastic bulging part 37. When assembling, pillar-shaped straight part is passed through the suspending hole 26 formed on the bottom wall 24 of the case 1, the bulging part 37 is then passed through the suspending hole 26 of the case 1 and restored by its elasticity to be retained by the bottom 24. As a result, it is possible to prevent the ultrasonic sensor 3 from dropping off. Further, since the ultrasonic sensor 3 is held by the elastic bulging

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part 37, it is possible to prevent ultrasonic vibration from being transmitted to the case 1, thereby achieving stable performance.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

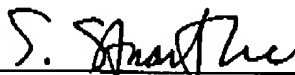
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